

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**COMPANY APPLICATION No. 327 of 2001****In****COMPANY PETITION No. 2 of 1998****With****COMPANY APPLICATION No. 332 of 2001****In****COMPANY PETITION No. 2 of 1998****For Approval and Signature:****HONOURABLE MR.JUSTICE M.R. SHAH**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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AHMEDABAD SILK EMPLOYEES - Applicant(s)
Versus
O.L.OF N.S. MILLS LIMITED & 2 - Respondent(s)

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Appearance :

MR DS VASAVADA for Applicant(s) : 1,
 OFFICIAL LIQUIDATOR for Respondent(s) : 1,
 MR JS YADAV for Respondent(s) : 1,
 MR RM DESAI for Respondent(s) : 2,
 NOTICE SERVED for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH**Date : 15/09/2006****COMMON ORAL JUDGMENT**

1. By way of these Judges' Summons the respective applicants – workers union have prayed for an appropriate order directing the respondents to pay the amounts due and payable to the concerned workmen of M/s. Nanikram Shobhraj Mills Company Limited. In Company Application No. 56 of 2005, this Court issued the following directions :-

Hence it is ordered that:

(A) IDBI as a lead secured creditor shall be at liberty to retain the amount of Rs.4.5 cores from the sale consideration available of the properties of the companies in liquidation and the balance amount shall be transferred by IDBI to the account of the OL within a week from today together with interest, if any. The IDBI shall utilise the amount for inter se distribution amongst the secured creditors as per agreed ratio.

(B) Out of the amount which may be received by the OL from IDBI, the OL shall set apart Rs.4.5 crores towards the workmen dues. Out of the amount of Rs.4.5 crores the amount forming part of 75% shall be distributed by the OL to the workmen concerned in proportion to the claim by the concerned workmen by A/C

payee cheque after proper identification by union or after production of authenticated record for proof of identification by the workman concerned.

The OL shall be at liberty to take assistance of the concerned union in case of difficulty and it will be open to the OL to open separate dividend account for the purpose of distribution amongst the workmen concerned.

The amount forming 25% of Rs.4.50 crores shall be set apart separately by the OL for distribution towards workmen dues as may be directed/ordered by this court hereinafter in the present proceedings.

All the secured creditors shall file undertaking for satisfaction of the workmen dues and such undertaking shall be filed with this court and the copy thereof shall be supplied to the OL.

The OL shall file report regarding the details of the properties realised, the namely of associate companies, if any, reference made in the valuation report of the property described as of the associate companies etc and inter se details of any rights of any of the associate company in the property of the company in liquidation, if available, shall also be mentioned in the said report. OL may also indicate the amount

of expenses and the fees to be recovered by the Central Govt under Rule 291 of Company Court Rules. Such report shall be filed within four weeks from today.

The aforesaid distribution of the amount as ordered earlier is purely adhoc basis subject to establishment of the claim by the secured creditors as well as workmen, as the case may be.

2. It is reported that there were some inter-se disputes between the workers of M/s. Nanikram Shobhraj Mills Company Limited and workers of associate companies and this Court further passed an order on 28th March, 2006 in Company Application No. 56 of 2005 to the effect that the workers of M/s. Nanikram Shobhraj Mills Company Limited and the workers of associate units companies would be paid their dues upto 41.39% and it is reported that the said amount has been paid on ad-hoc basis. Now, the Official Liquidator is required to verify the claims of the respective workers and the secured creditors and get it verified by the Chartered Accountant and also decide the final ratio. It is

unfortunate that though earlier orders passed by this Court directing the Official Liquidator to submit the report after verification of the claims of the respective workers as well as secured creditors but no final report has been submitted by the Official Liquidator. As a last chance, the Official Liquidator is directed to comply with the earlier orders and ascertain the claims of the respective workers as well as the secured creditors and finalize the ratio and get it verified by the Chartered Accountant and submit the report accordingly before this Court so that final order with regard to disbursement can be passed. The aforesaid exercise be done and completed within a period of 3 months from the date of receipt of this order. If any of the secured creditors have not submitted their claim, the Official Liquidator to call for the claims from the respective secured creditors, who have not submitted their claims, within a period of 2 weeks from today and the concerned secured creditors to submit their claims with the Official Liquidator within a period of 2

weeks thereafter, failing which, their claims will not be considered and appropriate further order will be passed.

3. Official Liquidator to submit final report after verifying the claims of each workers as well as secured creditors, as stated above.

4. With these, these applications are accordingly disposed of.

[M.R.SHAH, J.]

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